

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:17-cv-63-FDW

JIMMY ALLEN ROBERTS,)
)
 Plaintiff,)
)
 vs.) **ORDER**
)
 FRANK L. PERRY, et al.,)
)
 Defendants.)
)

THIS MATTER is before the Court on the North Carolina Department of Public Safety's ("NCDPS") sealed Notice, (Doc. No. 30), informing the Court that it has been unable to procure a waiver of service of process for Defendant **Frank L. Perry**.

NCDPS has provided Defendant Perry's last known address under seal. The Clerk of Court is directed to notify the U.S. Marshal that Defendant Perry needs to be served with the summons and Amended Complaint in accordance with Rule 4 the Federal Rules of Civil Procedure. If Defendant Perry cannot be served at the addresses provided by the NCDPS, the U.S. Marshal shall be responsible for locating his home address so that he may be served. See 28 U.S.C. § 1915(d) (in actions brought *in forma pauperis* under § 1915(d), "[t]he officers of the court shall issue and serve all process, and perform all duties in such cases"); Fed. R. Civ. P. 4(c)(3) ("At the plaintiff's request, the court may order that service be made by a United States Marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915...."). If the U.S. Marshal is unable to obtain service on Defendant Perry, the U.S. Marshal shall inform the Court of the reasonable attempts to obtain service. The U.S. Marshal shall not disclose Defendant's home address to the *pro se*

incarcerated Plaintiff and shall file any document containing such address under seal.

IT IS THEREFORE ORDERED that:

- (1) The U.S. Marshal shall use all reasonable efforts to locate and obtain service on **Defendant Perry**. If the U.S. Marshal is unable to obtain service on Defendant Perry, the U.S. Marshal shall inform the Court of the reasonable attempts to obtain service.
- (2) The Clerk is respectfully instructed to mail a copy of the Amended Complaint, (Doc. No. 24), the Sealed Notice containing Defendant's last known address, (Doc. No. 30), and this Order to the U.S. Marshal.

Signed: February 1, 2019



Frank D. Whitney
Chief United States District Judge

